



11 MAY 2009

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In re Application of
ISHIKAWA *et al*
U.S. Application No.: 10/595,975
PCT No.: PCT/JP2005/001867
Int. Filing Date: 02 February 2005
Priority Date: 18 March 2004
Attorney Docket No.: 09792909-6686
For: GAS EJECTOR, ELECTRONIC
DEVICE, AND GAS-EJECTING
METHOD

DECISION

This decision is in response to the petition under 37 CFR 1.182 filed 18 March 2009.

BACKGROUND

On 23 May 2006, applicants filed papers to enter the national stage using the USPTO EFS-Web system as the national stage of PCT/US05/01867. However, the declaration identified the PCT as PCT/JP05/001867. The application was processed as the national stage of PCT/US05/01867 by the USPTO.

On 10 March 2009, a communication was mailed requesting clarification on the PCT number.

On 18 March 2009, applicants filed a petition to change the underlying PCT application in the above-identified national stage application.

DISCUSSION

Change Underlying PCT Number

Applicants request that the PCT number in the above-captioned national stage application be corrected to PCT/JP05/001867 pursuant to 37 CFR 1.182. The \$400.00 petition fee has been paid.

A review of the above-captioned application file verifies that the wrong PCT number was designated when filing the application electronically using the USPTO

EFS-Web. The PCT number was listed as PCT/US05/001867 by applicants upon filing electronically with the USPTO. However, all indications on the transmittal letter including the name of the inventor, the title, and the international filing date correspond to PCT/JP05/001867. WIPO records also show that the title, international filing date and inventor correspond to PCT/JP05/001867. Applicants state in the instant petition that the PCT number should be PCT/JP05/001867 and that applicants simply made a typographical error upon filing.

This is sufficient for a grantable petition.

Request for Refund

Applicants request a refund of the \$400.00 petition fee. Applicants argue that the USPTO should have corrected applicants' error on its own without any fee. Applicants claim that it is USPTO policy that the information on the declaration controls an application.

This claim has been considered and dismissed. The PCT number listed on a declaration is not the controlling element in a national stage application. The PCT number recorded on the transmittal letter (PTO-1390 form) and the PCT number input upon filing when using the USPTO EFS-Web system controls. Moreover, the USPTO processed the application as filed. A petition under 37 CFR 1.182 to correct applicants' error is required. A refund of the petition fee is not warranted.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

Applicants' request for a refund of the petition fee is **REFUSED**.

USPTO records have been changed to reflect that the above-captioned application is the national stage of PCT/JP05/001867.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing.


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